98TH CONGRESS
1st Session

SENATE

REPORT
No. 98–10

REPORT

OF THE

SELECT COMMITTEE ON INTELLIGENCE

UNITED STATES SENATE

JANUARY 1, 1981 TO DECEMBER 31, 1982

FEBRUARY 28 (legislative day, FEBRUARY 23), 1983.—Ordered to be printed

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SENATE SELECT COMMITTEE ON INTELLIGENCE

[Established by S. Res. 400, 94th Cong., 2d Sess.]

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ROBERT R. SIMMONS, *Staff Director*
GARY J. SCHMITT, *Minority Staff Director*
DORTHEA ROBERSON, *Chief Clerk*

[During the period covered by this report, the composition of the Select Committee on Intelligence was as follows:]

BARRY GOLDWATER, Arizona, *Chairman*

DANIEL P. MOYNIHAN, New York, *Vice Chairman*

JAKE GARN, Utah
JOHN H. CHAFEE, Rhode Island
RICHARD G. LUGAR, Indiana
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ABRAM N. SHULSKY, *Minority Staff Director*
DORTHEA ROBERSON, *Chief Clerk*

PREFACE

The Senate Select Committee on Intelligence submits to the Senate a report of its activities from January 1, 1981 to December 31, 1982. Under the provisions of Senate Resolution 400, the Committee has been charged with the responsibility to carry out oversight over the intelligence activities of the United States. Most of the work of the Committee is, of necessity, conducted in secrecy. Nonetheless, the Committee believes that intelligence activities should be as accountable as possible. Therefore, we submit this public report to the Senate in order to meet this responsibility.

BARRY GOLDWATER,
Chairman.

DANIEL PATRICK MOYNIHAN,
Vice Chairman.

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REPORT TO SENATE ON SELECT COMMITTEE ON INTELLIGENCE

FEBRUARY 28 (legislative day, FEBRUARY 23), 1983.—Ordered to be printed

Mr. GOLDWATER, from the Select Committee on Intelligence, submitted the following

REPORT

I. INTRODUCTION

Recent years have witnessed a growth in public awareness of the importance of intelligence that is timely, relevant and of the highest quality. Accurate intelligence is required for informed decision making on many critical defense and foreign policy issues, such as the development of national nuclear weapons programs or Soviet use of chemical agents in warfare.

With the passage of the Intelligence Oversight Act,[1] the Senate Select Committee on Intelligence, its counterpart in the House of Representatives, and the Intelligence Community formalized a mutual commitment to insure that this nation has the best possible intelligence collection, analysis and production capabilities consistent with the protection of the rights of Americans provided by the Constitution and statutes. In brief, this Act requires that the Director of Central Intelligence and the heads of all intelligence agencies keep the two Congressional Intelligence Committees "fully and currently informed" on all aspects of the Intelligence Community's activities and that they respond to the Committees' requests for information. In turn, the Committees are responsible for protecting the information provided and for assuring that the Community is given the legislative and budgetary direction necessary to perform its mission. Within this

[1] The Intelligence Oversight Act passed in the United States Senate in 1980. It subsequently was incorporated into the Intelligence Authorization Act for FY 1981, as an amendment to the National Security Act of 1947. (50 U.S.C. 413) The Act was patterned after Senate Resolution 400 which had been in effect since 1976.

framework, the Senate Select Committee on Intelligence and the Intelligence Community have established a sound and productive working relationship.

In January, 1981, the Republican Party assumed control of the Senate and Senator Barry Goldwater succeeded Senator Birch Bayh as Chairman of the Senate Select Committee on Intelligence. Senator Daniel Patrick Moynihan became Vice Chairman of the Committee. Because both Senators had served on the Committee for a number of years, the transition of leadership was orderly and successful. In a letter to the members of the Committee, Senator Goldwater said:

> . . . the Committee has to be non-political . . . I have always believed our major job is to oversee the intelligence community and to do everything in our power to improve that community. . . .

The public's confidence in U.S. intelligence activities is preserved and enhanced in part through this process of Congressional oversight of the activities of the Intelligence Community. The Senate Select Committee on Intelligence reviews the Community's programs, determines their budgets, and is regularly notified of significant intelligence activities at home and abroad. In discharging its constitutional and statutory functions and preserving necessary secrecy, the Committee has sought to steer the difficult course between meaningful review of executive intelligence activities and judicious treatment of highly sensitive information.

COVERT ACTION

In the area of covert action, as provided by Executive Order 12333, Senate Resolution 400 and Title V of the National Security Act of 1947, and Section 662 of the Foreign Assistance Act of 1961 (the Hughes-Ryan amendment as revised in 1980), the Committee has received detailed reports and has heard testimony on covert action programs before implementation, and has actively monitored the progress of those programs once launched. Certain covert action programs have been modified to take into account views expressed by the Committee. Under the provisions of Senate Resolution 400, the Committee has also provided briefings on some programs to members of other committees with an interest in these matters.

In addition, the Committee has been active in reviewing covert action during the annual budget authorization process. In that connection, the Committee has continued its practice of annual review of each covert action line-item in the budget process. Given the sensitivity of information regarding covert action and the Presidential findings submitted to the Committee, this report does not discuss the substance of these matters which occupied a substantial amount of time and attention of Committee members.

II. Legislation and Executive Orders

INTELLIGENCE IDENTITIES PROTECTION

In recent years, Members of the Senate Select Committee on Intelligence, along with other colleagues in Congress, have become increasingly concerned about the systematic effort by a small group

of Americans, including some former intelligence agency employees, to disclose the names of covert intelligence agents.

The names of more than 1,000 alleged CIA officers were disclosed in two books by former CIA officer Philip Agee. Louis Wolf, the co-editor of The Covert Action Information Bulletin to which Agee contributes, claimed it had disclosed the names of more than 2,000 CIA officers over a six year period.

The danger of such exposure was underscored by incidents of violence in Greece, Jamaica and Nicaragua. Richard Welch, CIA Station Chief in Athens, was shot and killed in front of his home in December 1975, less than a month after he was identified in The Athens Daily News. His name was publicly circulated earlier by a magazine then published by Agee.

On July 4, 1980, in Kingston, Jamaica, shots were fired into the home of an American Embassy official, Richard Kinsman, only 48 hours after editor Wolf named Kinsman and 14 other American diplomats in Jamaica as alleged agents of the CIA. On July 7, 1980, three days after Kinsman's home was machine-gunned and bombed, another Embassy employee listed by Wolf apparently was targeted but escaped without harm. In addition to the disclosure of names, Wolf also made public the addresses, telephone numbers, automobile license plate numbers and even the color of automobiles driven by the Americans he cited.

On November 6, 1981, several weeks after Philip Agee had visited Nicaragua and charged at a press conference that at least 10 CIA agents were "hiding" in the U.S. Embassy's Political Section, four American officials were listed as CIA agents in a pro-government newspaper in Managua. Thereafter, all four were harassed by armed men. Between November 6 and December 13, 1981, three women employees at the Embassy were assaulted, bound and gagged by armed men who overpowered total guards and broke into their homes in Managua.

Security considerations preclude confirming or denying the accuracy of specific attempts at identifying U.S. intelligence personnel. There have been, however, many such disclosures. The destructive effects of these disclosures on U.S. intelligence operations have been varied and wide-ranging. The Select Committee on Intelligence is aware of numerous examples of such effects which cannot be addressed in a public report.

The Committee concluded in 1980 that the United States cannot collect human intelligence it requires unless intelligence officers are provided effective protection and its sources of intelligence are assured anonymity. The Committee found that existing espionage statutes needed to be supplemented with specific prohibitions which would permit more effective prosecution of persons who expose covert intelligence identities.

Numerous proposals had previously been made for a criminal statute to punish disclosures of the identities of agents. Senator Bentsen introduced intelligence protection proposals in the 94th and 95th Congresses, but no action was taken. In 1979, Representative Boland, Chairman of the House Intelligence Committee, introduced H.R. 5615, the Intelligence Identities Protection Act, which was cosponsored by other Members of that Committee. Identical provisions were included in S. 2216. introduced on January 24, 1980, as the Intelligence Reform Act of 1980, by Senator Moynihan and cosponsored by Sena-

tors Wallop, Jackson and Chafee. Provisions similar to Senator Bentsen's bill were included in S. 2284, introduced on February 8, 1980, as the National Intelligence Act of 1980, by Senator Huddleston and cosponsored by Senators Mathias, Bayh, and Goldwater.

In a meeting on May 8, 1980, the Senate Intelligence Committee decided to pursue intelligence identities protection using S. 2216 as the vehicle for further consideration of this issue. The Committee held hearings on June 24 and 25 which focused specifically on intelligence identities protection provisions of S. 2216. Those hearings also considered other proposals on the subject, including S. 191 introduced by Senator Bentsen on January 23, 1979, and similar provisions of S. 2284.

On July 25, 1980, the House Committee unanimously approved H.R. 5615, the Intelligence Identities Protection Act, with amendments.

The Select Committee on Intelligence met on July 29, 1980, to consider S. 2216. Senator Chafee offered an amendment in the nature of a substitute which differed from H.R. 5615, as approved by the House Committee, on only one issue. The House Committee had approved the following standard for criminal penalties if the disclosure of an agent's identity is made by a person who did not learn that identity as a result of having authorized access to classified information:

> Whoever, in the course of an effort to identify and expose covert agents with the intent to impair or impede the foreign intelligence activities of the United States, discloses, with the intent to impair or impede the foreign intelligence activities of the United States, to any individual not authorized to receive classified information, any information that identifies a covert agent knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined not more than $15,000 or imprisoned not more than three years, or both.

Based on testimony critical of the intent standard contained in the House version, Senator Chafee proposed the following standard:

> Whoever, in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, discloses any information that identifies an individual as a covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual's classified intelligence relationship to the United States, shall be fined not more than $15,000 or imprisoned not more than three years, or both.

This language had the full support of CIA and the Justice Department. Two amendments to Senator Chafee's substitute were adopted

unanimously by voice vote; one amendment offered by Senator Huddleston added a definition of "pattern of activities," and the second amendment by Senator Bayh provided that it shall not be an offense under the bill for an individual to disclose information that solely identifies himself as a covert agent. Senator Chafee's substitute, as amended, was then adopted by a vote of 13 to 1. S. 2216, as amended by Senator Chafee's substitute, was approved by the Committee as the Intelligence Identities Protection Act of 1980, with a recommendation for favorable action.

On August 22, 1980, S. 2216, as reported by the Select Committee on Intelligence, was referred to the Committee on the Judiciary. The Committee held hearings on September 5, 1980. On September 17, 1980, the Committee met to markup S. 2216, as reported by the Select Committee, and four amendments to this bill were adopted. The Committee reported the bill out September 24, 1980. Although proponents of the bill made efforts to bring it to the floor, the prospect of an extended debate resulted in delay of floor action. The effect of these delays was that S. 2216 did not reach the floor of the Senate before the second session of the 96th Congress came to a close on October 3, 1980.

After the convening of the 97th Congress, Senator Chafee and 19 other Senators introduced the Intelligence Identities Protection Act of 1980 (S. 391) on February 3, 1981. This bill was virtually the same as the version of S. 2216 which was reported from the Select Committee on Intelligence the year before by a vote of 13 to 1, the only difference being the numbering of paragraphs. S. 391 was referred to the Committee on the Judiciary where it was subsequently sent to the Subcommittee on Security and Terrorism for action. On June 24, 1981, S. 391 was polled out of the Subcommittee on Security and Terrorism by a vote of 3 to 1 with 1 abstention.

On September 23, 1981, the House of Representatives voted 226 to 181 to pass an amendment to the House version proposed by Congressman Ashbrook adopting the Chafee language for subsection 601(c). After several other amendments, the House passed H.R. 4 by a final vote of 254 to 56.

The Senate Committee on the Judiciary considered S. 391 at a business meeting on October 6, 1981. S. 391 contained in Section 601(c) a standard of proof requiring that disclosures of information derived from unclassified sources identifying covert agents must be made "in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States." Senator Biden offered an amendment to strike this language and insert in its place the language that was found in Section 601(c) of the House bill as reported from the Permanent Select Committee on Intelligence. This amendment passed by a vote of 9 to 8 with Senator Heflin voting "present".

Thereafter, Senator Baucus offered an amendment to specifically exclude from Section 603(a) the Peace Corps as a department or an agency to be designated by the President for the purpose of providing assistance and procedures for establishing cover for intelligence officers and employees. Senator Baucus' amendment carried by a vote of

11 to 7. As amended, S. 391 was ordered reported from the Committee on the Judiciary with 17 Members voting affirmatively.

On December 16, 1981, S. 391 was taken up on the floor of the Senate, but extended debate by Senator Bradley resulted in further postponement of action on the bill.

Following the convening of the second session of the 97th Congress, S. 391 was once again taken up on the floor of the Senate. On February 25, 1982, Senators Chafee, Biden and Goldwater engaged in initial debate over the provisions of Subsection 601(c) which had been the focus of much of the debate on the bill. On March 1, this debate continued with Senators Jackson, Wallop and Leahy of the Intelligence Committee adding their views.

On March 3, 1982, Senators Chafee and Durenberger of the Intelligence Committee engaged in an extended colloquy which clarified several important issues related to the legislative intent of an amendment offered by Senators Chafee and Jackson restoring the language of Subsection 601(c) to the form originally reported out of the Senate Intelligence Committee. Senator Durenberger concluded his remarks by stating that "Senator Chafee's careful drafting and his participation in this colloquy will go far to insure against the sort of abuses that some people fear will occur."

Debate on Subsection 601(c) continued on March 16, with Senator Huddleston adding his views. The following day, the Senate voted 55 to 39 to accept the Chafee/Jackson amendment. The effect of the amendment was to make the Senate version of the proposed new law conform to the House version as it was passed the previous fall. The Chafee/Jackson amendment required proof that the disclosure of information identifying covert agents was made in the course of a "pattern of activities" intended to identify and expose covert agents and "with reason to believe" that such exposure would harm U.S. security interests. The "intent" to impair or impede U.S. intelligence activities would no longer be an element of proof.

On March 18, 1982, the Senate rejected an amendment offered by Senator Bradley. The bill was then passed by a vote of 90 to 6 with 3 Senators not voting.

For a period of almost ten weeks following the Senate action on S. 391, conferees represented by the staffs of the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence engaged in lengthy discussions on how to resolve the differences between H.R. 4 and S. 391 as passed. A Conference Report was agreed to on May 20, 1982 with an accompanying Statement of Managers which clarified the legislative intent of the Congress. On June 3, 1982, the Intelligence Identities Protection Act of 1982 (H.R. 4) Conference Report passed in the House by a vote of 315 to 32 with 85 not voting. On June 10, 1982, it passed in the Senate by a vote of 81 to 4 with 14 not voting.

On June 17, 1982, in a ceremony at CIA Headquarters in Langley, Virginia, President Reagan signed the Intelligence Identities Protection Act into law. After praising the late Representative Ashbrook, Senator Chafee, and other Members of Congress for their work in promoting the legislation, the President stated, "The revelation of

the names of secret agents adds nothing to legitimate public debate over intelligence policy." He went on to say that the law was carefully written "so that it focuses only on those who would transgress the bounds of decency—not those who would exercise the legitimate right of dissent."

A guest at the ceremony was Christina Welch, the widow of Richard Welch, the CIA Station Chief whose 1975 slaying in Athens, Greece, sparked a Congressional outcry for legislation to prevent the exposure of agents' identities.

The Intelligence Identities Protection Act of 1982 represents the culmination of a two and a half year effort by Congress to legislate against the pernicious activity of "naming names." While much of the legislative activity in the second session of the 97th Congress took place outside of the Senate Select Committee on Intelligence, the work of Committee Members and staff played a key role in moving the bill through Congress. Senator Barry Goldwater, Chairman of the Senate Select Committee on Intelligence, characterized this contribution on the floor of the Senate on June 10, 1982, when he stated:

> Mr. President, I commend my colleague on the Senate Select Committee on Intelligence, Senator John H. Chafee of Rhode Island, for his courage and his persistence in pursuing this legislation. He worked to mold it into its current shape when the Committee reported the bill out in the summer of 1980, and he has worked long and hard in getting this legislation through the Congress ever since. He has done a great job for the Committee, for the Congress, and for the Nation. I, for one, consider it the high point of my Chairmanship of the Senate Select Committee on Intelligence that I am Chairman at the time this bill has passed the Congress and will be signed into law. This is a great event, and I am proud to be a part of it.

CENTRAL INTELLIGENCE AGENCY SPOUSES' RETIREMENT EQUITY ACT OF 1982

During the winter of 1981–82, a number of CIA spouses and former spouses and other individuals associated with the Agency, including Mr. William Colby, former Director of Central Intelligence, approached Senator Goldwater, Chairman of the Select Committee on Intelligence, and Senator Inouye, former chairman of the Committee, to request that legislation be enacted to make CIA retirement benefits, which were paid exclusively to the employee except when specified otherwise by court divorce order, automatically available in part to former spouses of these employees. In response to these contacts, Committee staff met with several of these individuals and also with CIA officials, notably Mr. Stanley Sporkin, Agency General Counsel, to discuss the concerns of CIA spouses and former spouses, especially in connection with divorce. As a result of this meeting and other actions, the CIA established a task force on spousal concerns, and this task force subsequently prepared a report on divorce-related problems and other issues. The task force is expected to continue to meet to address spousal and family concerns.

Difficulties appeared to be present in the equitable distribution of retirement benefits to former spouses and the handling of divorce-related requests by spouses or former spouses for Agency assistance in securing through judicial action a share of the retirement benefits of Agency employees. These difficulties were not completely resolved by Executive Order 12197 of 1980, which inter alia provided that retirement benefits under the CIA Retirement and Disability System (CIARDS), like Civil Service retirement benefits, would be subject to judicial apportionment in the context of the division of marital assets at the time of divorce. Specific problems in administering the Executive Order and equivalent Civil Service provisions made it difficult for former spouses of CIA employes to obtain relief both during and after divorce proceedings. These difficulties were compounded by the overseas location of these spouses during much of their professional life and also by the need of the Agency to retain secrecy concerning the details of the identities and assignments of its personnel who have operated in a clandestine capacity.

In response to these concerns, Committee staff drafted S. 2422, which was introduced by Senator Inouye on April 22, 1982, on behalf of himself, Chairman Goldwater, Senator Moynihan, Vice Chairman of the Select Committee, Senator Durenberger, and Senator Huddleston. S. 2422 as introduced would have adapted the provisions of the Foreign Service Act of 1980 relevant to retirement benefits for former spouses for insertion in the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note). The Committee's hearing on S. 2422, held on May 5, 1982, was closed due to the sensitive nature of some of the personal identities and case histories discussed. The testimony of several CIA spouses and former spouses was heard, as well as the testimony of high-ranking exofficials of the CIA including Mr. Colby. The Agency was represented by General Counsel Sporkin as well as supporting staff from the Agency's personnel division. Testimony of several former CIA intelligence officers was also heard. The Committee also received over seventy-five written comments for the record by Agency employees and their current or former spouses.

In response to the comments received from ex-officials of the CIA, spouses, former spouses and CIA representatives, and also in light of the passage of similar provisions by the House of Representatives in Title VI of H.R. 6068, Committee staff developed several amendments to S. 2422 as introduced. On June 17, 1982, the full Committee meet under the chairmanship of Senator Inouye to markup S. 2422. Senator Bentsen asked to have his name added as a co-sponsor of the bill. The technical amendments to the bill were adopted by the Committee in the markup and the Chairman, without objection, instructed Senator Inouye to submit the measure and an accompanying report (Senate Report 97–484), to the floor for positive consideration.

Subsequently, on June 30, 1982, the provisions of S. 2422 were added as Title VI to S. 2487, the Senate version of the Intelligence Authorization bill for fiscal 1983. Its provisions were passed that day. On August 19, 1982, the House and Senate conferees on the Intelligence Authorization Act filed their report. H. Rept. No. 97–

779, which essentially adopted the Senate version of Title VI with a few minor revisions. The Authorization Act was passed by the Senate on September 10, and was signed by the President on September 27, 1982.

The purpose of this Act is to secure an equitable share of retirement benefits for qualified spouses of Central Intelligence Agency (CIA) employees who have served a substantial period overseas. These benefits include retirement annuities, survivor payments, and lump-sum disbursements from the retirement fund. This Act will help assure that the spouses of CIA officers, many of whom have made deep personal and professional sacrifices by following their intelligence officer-partners abroad in difficult service, will not be left without means of support in their retirement if their marriages later end in divorce.

Under the Act, an individual who has been married for more than ten years to a CIA officer, during the officer's period of creditable service, is presumptively entitled to a pro rata share of the officer's retirement benefits, up to fifty percent, based on the length of the marriage during the period of service prior to divorce. The spouse is also entitled to a similar share of the officer's survivorship benefits. These provisions are substantially equivalent to those the Congress adopted for Foreign Service spouses under Section 814 and related provisions of the Foreign Service Act of 1980, Public Law No. 96–465. Only employees and spouses who have served for more than five years abroad together during the marriage are covered by these amendments.

This Act not only goes a long way toward financially protecting CIA spouses who have followed their husbands or wives abroad, but will also help the Agency attract the best possible calibre of employee, such as those who otherwise would have two career marriages. It should also help to highlight publicly the difficult personal and professional situation of our intelligence officers and their families who serve the Nation abroad.

While providing these assurances, the Act will not necessarily alter the outcome of divorces involving CIA officers. The entitlement of the former spouse to a share of the retirement or survivorship payments is fully reviewable by courts in the context of dividing marital assets subject to apportionment by state divorce courts. The fact that the payments to former spouses would be made automatically from the retirement system, unless the divorce court orders otherwise, however, will make these benefits more dependable, particularly during the time before final judicial determination of the terms of the property division.

DIA AND NSA PERSONNEL MANAGEMENT

At the request of Senator Wallop, the Committee added a provision to the FY 1982 Intelligence Authorization Act establishing a Senior Executive Service (SES) in the Defense Intelligence Agency (P.L. 97–89, Title VII, December 4, 1981). The Service was inaugurated on December 6, 1982.

Senator Wallop's original proposal would have provided authority for the Secretary of Defense to improve DIA's personnel management system for civilian employees not covered by the SES. This would

include an exemption from civil service classification requirements, greater flexibility in fixing pay, and authority to terminate any civilian employee if necessary or advisable in the interests of the United States. While these provisions were included in the FY 1982 Authorization bill passed by the Senate, they were deleted in conference. They were again reported by the Committee in the Defense Intelligence Agency Personnel Management Act (S. 2488). The bill was passed by the Senate on May 4, 1982, but no action was taken in the House.

Both the SES provisions and S. 2488 are intended to give DIA authority over personnel comparable to that now enjoyed by the United States' other major intelligence agencies. The Committee has sought to equalize authority over personnel primarily in order to enhance the DIA's ability to compete with CIA in the field of intelligence analysis. Having accepted the notion that the country would be best served if top policymakers received analyses of key intelligence subjects from more than one source, the Committee sought to equip DIA to be a more effective, more competitive provider of analyses.

The Intelligence Authorization Act for FY 1982 also established a Senator Cryptologic Executive Service for qualified civilians in the National Security Agency. In addition, the Act gave NSA statutory authority to address difficulties in the recruitment, training and retention of qualified linguists in numbers sufficient to meet both routine and crisis needs. The Act authorized NSA, among other things, to provide financial support to educational institutions and government training facilities for language development programs; establish a reserve of cryptologic linguists recruited from among former NSA personnel; and pay the costs of training and incentives for current personnel to improve their language skills.

FOREIGN MISSIONS ACT

During the 96th Congress, Members of the Committee helped shape and pass an important provision of the Foreign Missions Act (22 U.S.C. 4309). Over the years, foreign governments increased limitations on U.S. missions and personnel, while the United States provided those same governments with relative freedom. The Committee felt that the United States needed to reciprocate with a policy of stronger oversight and regulation of activities of foreign governments and their representatives in our country.

In this spirit, Senators Goldwater, Moynihan, Jackson, Inouye, Durenberger, and Huddleston sponsored an amendment designed to assure the Foreign Missions Act would adequately protect and advance national security interests. In a joint floor statement, these Senators noted that "both the provisions of this Bill and its subsequent administration must affect the broad national security interests of the United States." To this end, the amendment provided that the authorities granted to the Secretary of State under the Act "shall be exercised in accordance with procedures and guidelines approved by the President." As explained in their joint statement, it is intended that these procedures provide for oversight by the National Security Council, and include specific requirements for obtaining the recommendation

of and coordination with appropriate national security and law enforcement agencies on significant decisions and policy matters.

This amendment was approved unanimously by the Senate and included in Section 212 of the Foreign Missions Act. The Foreign Missions Act was included in the State Department Authorization Act for FY 82 and FY 83.

PROTECTION OF THE DIRECTOR AND DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE

On April 8, 1981, S. 907 was introduced in the Senate and referred to the Senate Committee on the Judiciary. The purpose of the bill was to amend Sections 351 and 1751 of Title 18 of the United States Code to provide penalties for crimes including assassination, kidnapping and assault against Cabinet officers, Supreme Court Justices, and Presidential staff members. On March 10, 1982, the Senate Committee on the Judiciary reported the bill to the Senate which passed it on May 5, 1982.

On behalf of the Select Committee on Intelligence, Senator Schmitt offered an amendment to include the Director and Deputy Director of Central Intelligence among those federal officials to be protected under the new Title 18 language. The amendment was accepted by unanimous consent by the Senate.

The House of Representatives passed S. 907 on September 14, 1982. The Senate amendment which included the Director and Deputy Director of Central Intelligence was retained in the House version of S. 907. The Senate agreed to the House version on September 22 and the Act was signed into law by the President as Public Law 87–285 on October 6, 1982.

PROTECTION OF INTELLIGENCE PERSONNEL

On May 5, 1982, Senator Biden introduced S. 2522, "a bill to protect the safety of intelligence personnel and certain other persons." This bill was identical to provisions in the Intelligence Authorization Act for FY 1982 that passed in the Senate in 1981, but were not agreed to by the House. The bill established as new offenses the murder, manslaughter, assault, threat against, extortion or kidnapping of persons in the U.S. under U.S. intelligence auspices or persons provided U.S. permanent residence status in accordance with provisions in the CIA Act of 1949. Further, the bill added to current penalties for killing or attempting to kill officers or employees of any department or agency in thte Intelligence Community.

In December, 1982, the section of S. 2522 increasing penalties for crimes against employees of the Intelligence Community was incorporated into S. 2411, the Justice Assistance Act of 1982.

This bill was vetoed by President Reagan in January, 1983, on other grounds.

FREEDOM OF INFORMATION ACT (FOIA)

In May, 1981, Chairman Goldwater and Senator Chafee introduced S. 1273, a bill that, under certain circumstances, would exempt the intelligence agencies from the Freedom of Information Act (FOIA),

but would still permit U.S. citizens and permanent resident aliens to request information on themselves. The language of S. 1273 was virtually the same as in Section 3 of S. 2216, introduced in the 97th Congress by Senators Moynihan, Wallop, Jackson, Chafee and several others not on the Committee. It was also similar to provisions for CIA included in the National Intelligence Act of 1980 (S. 2284) introduced in the 97th Congress by Senators Huddleston, Mathias, Bayh and Goldwater.

In connection with this proposed legislation, the Committee held a public hearing on July 21, 1981. The witnesses included Admiral Inman from the CIA, General Faurer, NSA, General Larkin, DIA, K. Prescott Lowe, American Newspaper Publishers Association, Robert Lewis, Society of Professional Journalists, Allan Adler and Mark Lynch, American Civil Liberties Union, Jack Maury, Association of Former Intelligence Officers, and Samuel Gammon of the American Historical Association.

On November 24, 1981, the Committee held a closed session to learn from Admiral Bobby Inman, Deputy Director of Central Intelligence, how the FOIA affects our intelligence relationship with other countries. FBI Director Webster also provided the Committee with classified materials indicating the impact of FOIA on FBI counterintelligence and counterterrorism investigations. No further action was taken by the Committee on S. 1273.

The principal argument for amending the FOIA regarding the intelligence agencies is the effect of the Act in discouraging individuals, organizations and other countries from providing information and cooperating in other matters with the United States' intelligence agencies. Additional, but less important arguments address the high cost, in money and personnel, of carrying out the Act and the likely utilization of the Act by hostile foreign intelligence services.

The principal argument for retaining the present provisions of the Act is that the statutory exemptions for classified information and material relating to intelligence sources and methods adequately protect national security interests, and that the interest in public information outweighs any effect such requests might have on the intelligence agencies.

Executive Order 12356 on National Security Information, signed on April 6, 1982, affected FOIA cases by changing some classification criteria. This led Senator Durenberger, on April 28, 1982, to introduce S. 2452, which would amend the Freedom of Information Act in two ways. Section 3 would amend the (b)(1) exemption for classified information by requiring both that such information meet the "identifiable damage to national security" standard and that a "balancing" test be made by executive branch decision-makers that the need to protect the information outweighs the public interest in disclosure. Section 2 would amend the (a)(4)(B) language on de novo review by limiting a district court's review of the "balancing" test to ascertaining that the test was in fact made. Senators Moynihan, Leahy, Biden, Huddleston and Roth cosponsored this legislation, which was referred to the Judiciary Committee.

No legislative action was taken on either S. 1273 or S. 2452 in the 97th Congress.

SPECIAL AUTHORITY FOR FBI UNDERCOVER OPERATIONS

In 1981 the Select Committee reported legislation to provide certain administrative authority needed for the use of undercover operations by the FBI to collect foreign intelligence and foreign counterintelligence. Previously, similar authority for both FBI law enforcement operations and collection of foreign intelligence and foreign counterintelligence had been provided in annual Justice Department authorization bills and continuing resolutions. The purpose of the 1981 legislation was to give the FBI permanent authority for the collection of foreign intelligence and foreign counterintelligence and to modify certain requirements that are inappropriate in this field. In general, the FBI would have been authorized to lease or purchase property, enter into contracts, establish proprietaries, use proceeds therefrom to offset expenses, and deposit funds in banks in a manner that concealed the FBI's identity or role.

As permanent legislation, this measure would have eliminated the need for annual re-enactment of authority. The Select Committee determined that the types of activities engaged in by the FBI in this area should be based on specific, permanent legal authority to enhance the effectiveness of its collection of foreign intelligence and foreign counterintelligence. The proposal also would have eliminated specific statutory requirements for written certifications by the FBI Director and the Attorney General that each action was necessary for the conduct of an undercover operation. The Select Committee concluded that such requirements were unnecessarily rigid for activities in the foreign intelligence and foreign counterintelligence field and that the Attorney General should have the discretion to establish appropriate certification and review procedures in consultation with the FBI Director.

The Select Committee's recommendations were based on the continuing review of FBI foreign intelligence and foreign counterintelligence collection activities that the Committee conducts through the intelligence budget authorization process and other oversight practice. The legislation was reported on May 6, 1981, as section 509 of the Intelligence Authorization Act for Fiscal Year 1982 (Senate Report No. 97–57). This bill was referred sequentially to the Committee on the Judiciary, which voted to delete section 509 on the grounds that the subject could be better dealt with in the Department of Justice Authorization Act or other legislation. (Senate Report No. 97–148, July 9, 1981).

In February 1982, the special provisions for FBI undercover operations that were previously contained in the Justice Department authorization bills lapsed; and the FBI advised the Select Committee that their absence imposed substantial costs in the use of undercover operations for foreign counterintelligence purposes. These provisions were reinstituted in the continuing resolution for Fiscal Year 1983 passed in December 1982, but they will expire at the end of the fiscal year unless reenacted.

The final report of the Senate Select Committee to Study Law Enforcement Undercover Activities of the Department of Justice, issued in December 1982, recommended enactment of permanent legislation

for FBI undercover operations comparable to the measure reported by this Committee. The Select Committee to Study Undercover Activities was assisted in its work by this Committee. Chairman Goldwater, at the request of Senators Mathias and Huddleston, approved the provision of staff and equipment in support of the inquiry into law enforcement undercover operations. As indicated by this Committee's action in 1981 and the unanimous report of the Select Committee to Study Undercover Activities, permanent legislative authority for FBI undercover operations should receive serious consideration.

EXECUTIVE ORDER ON INTELLIGENCE ACTIVITIES

Early in 1981, the Reagan Administration made known its intention to replace Executive Order 12036 on Intelligence Activities with its own Executive Order. During the confirmation hearings on William Casey for the position of Director of Central Intelligence (DCI) and on Admiral Bobby R. Inman for the position of Deputy Director of Central Intelligence (DDCI), the issue of a new Executive Order on Intelligence Activities was raised. Director Casey made a commitment at his confirmation hearing, when questioned by Senator Huddleston, to consult on this matter with the Committee. Admiral Inman reaffirmed that commitment later, after a draft order became public and the Committee met with Inman to discuss the status of the draft and the arrangements for consultation. A later draft was provided to the Committee by Director Casey in May but was withdrawn for further consideration within the Executive Branch shortly thereafter.

The Administration forwarded copies of the final draft of the Executive Order to the Committee on September 23, 1981. As part of the consultative process, the Committee agreed to review the proposed Order and to forward its comments, observations, and suggestions to the Administration in an expeditious manner.

The Committee understands that the promulgation of an Executive Order is solely the prerogative of the President. However, within the oversight responsibilities of the Committee and due to the important and highly sensitive nature of intelligence activities and the turmoil within the Intelligence Community during much of the 1970s, it was believed that the best interests of the Community would be served by cooperation between the Executive and Legislative branches of government. The consultative process on this Executive Order took place in that spirit.

Upon receipt of the proposed new Executive Order, Senator Goldwater, Chairman of the Select Committee, requested Senator Schmitt, Chairman of the Subcommittee on Legislation and the Rights of Americans, to conduct a review. Senator Schmitt and Senator Leahy, Vice Chairman of the Subcommittee, held three meetings in early and mid-October with representatives of the Intelligence Community.

The first meeting took place on October 1, 1981, at which time Admiral Bobby R. Inman, Deputy Director of Central Intelligence, Stanley Sporkin, General Counsel of the Central Intelligence Agency, and Admiral E. A. Burkhalter, Jr., Deputy Director of the Defense Intelligence Agency, met with Committee Members. The Subcommittee held its second meeting with General Richard G. Stilwell,

Deputy Under Secretary of Defense for Policy, and Britt Snider, Director of Counterintelligence and Security Policy, on October 5, 1981. On October 15, 1981, Richard Willard, Counsel to the Attorney General for Intelligence Policy, and Edward O'Malley, Assistant Director for the Intelligence Division of the Federal Bureau of Investigation, met with the Subcommittee. Each of the three sessions provided representatives of the Intelligence Community an opportunity to present their views as well as answer questions posed by Committee Members.

The recorded meetings and written correspondence between the Committee and Intelligence Community agencies has provided the Committee and Congress with a history of the intent of the provisions of the Executive Order. This history will assist the Committee in fulfilling its oversight responsibilities.

In addition to the consultative meetings held by the Subcommittee, individual Members of the Committee met with and discussed the proposed Order with representatives of the Intelligence Community and the Administration.

The Subcommittee drafted a proposed Report and submitted it to the full Committee on October 27, 1981. The full Committee reviewed the Subcommittee's draft Report and on October 30, 1981, submitted its Report to Dr. Richard V. Allen, Assistant to the President for National Security Affairs. The Report contained four observations about the draft Executive Order and the consultative process and seven recommendations about the Executive Order. The Report was submitted by the Committee as a consensus Committee Report.

While a consensus Committee Report was submitted to the Administration, various members of the Committee had additional areas of concern and interest which were not addressed in the Committee Report. The Committee decided that it would prove helpful to the Administration if each Member of the Committee were given an opportunity to express his individual concerns as part of the Report. For this reason, an Additional Views section was added to the Report. Eleven Committee Members, individually or in groups, submitted additional views addressing various aspects of the proposed Executive Order.

On December 4, 1981, the President signed Executive Order 12333 on United States Intelligence Activities. On the same date, the Committee was briefed by the Administration on the changes which had been made to the draft Executive Order before its promulgation which resulted from consultation with the Committee.

The Committee concluded that its involvement prior to the promulgation of the Order, rather than after its promulgation, was useful to the Committee and the Administration.

Following the promulgation of E.O. 12333, the Community submitted implementing guidelines for the Committee to review one week prior to their effective date. In addition, the Committee has asked the Attorney General and the Director of Central Intelligence, in consultation with the Committee, to establish mechanisms or procedures for continued internal and Committee oversight of implementation of the new Executive Order.

EXECUTIVE ORDER ON NATIONAL SECURITY INFORMATION

Executive Order 12065 on National Security Information was signed by President Carter on June 28, 1978. By 1980, the Carter Administration had begun a review of E.O. 12065. One reason for the review was the 1979 General Accounting Office (GAO) recommendation that systematic review be abolished. GAO had concluded that "systematic review" of classified information provide only marginal benefit at great expense.

The Reagan Administration continued the review of E.O. 12065 in light of the Carter Administration review and its own views concerning classification. That review involved the various departments and agencies of the Executive Branch and committees of the Congress.

The Administration forwarded copies of their proposed Executive Order to the Committee on February 4, 1982, for the Committee's review and comments. The Committee drew upon the experience of consultation with the Administration which took place on the Executive Order on Intelligence Activities in 1981. As part of the consultative process, the Committee agreed to review the proposed Order and to forward its comments, observations, and suggestions to the Administration in an expeditious manner.

Upon receipt of the proposed Executive Order on National Security, Senator Schmitt, Chairman of the Subcommittee on Legislation and the Rights of Americans, and Senator Leahy, Vice Chairman, held a meeting on February 24, 1982, with representatives of the Executive Branch involved in the drafting of the proposed Order.

The briefing was attended by Steven Garfinkel, Director, Information Security Oversight Office of the General Services Administration; Ernest Mayerfield, Deputy General Counsel, Central Intelligence Agency; and Arthur Van Cook, Director of Information Security, Department of Defense. The Information Security Oversight Office (ISOO) coordinated the drafting of the Executive Order and presented the Administration's position on the draft Order. Representatives of the CIA and the Department of Defense were requested to attend to comment on the sections of the draft which were important to their functions.

In addition to the consultative meeting held by the Subcommittee, written responses were provided to questions for the record, and representatives of ISOO and DOD met with Committee staff. The recorded meeting and written correspondence between the Committee and the Administration provides the Committee and Congress with a history of the intent of the provisions of this Executive Order. This history will assist the Committee in fulfilling its oversight responsibilities.

The Subcommittee proposed a draft Report to the full Committee which was discussed and amended to reflect a consensus view of the Committee. The Report contained five observations about the proposed Executive Order and the consultative process and nine recommendations for the Executive Order. The Report also contained the additional views of four Members of the Committee whose concerns and views were not included in the Consensus Report.

The Report was forwarded to William P. Clark, Assistant to the President for National Security Affairs and Steven Garfinkel, Director of the Information Security Oversight Office of the General Services Administration on March 9, 1982. The Executive Order was signed April 6, 1982.

III. Intelligence: Collection, Analysis and Production

QUALITY OF ANALYSIS

The Committee seeks to assure that American policymakers receive the highest quality of intelligence possible in a timely fashion, and a full appraisal of where there are differences of opinion on a given topic among analysts throughout the Intelligence Community.

The Subcommittee on Analysis and Production chaired by Senator Lugar, has held hearings, has met with representatives of the Intelligence Community, and has begun a dialogue with the CIA's Directorate of Intelligence (DDI) regarding the quality of the U.S. intelligence product. With the cooperation of the DDI, the Subcommittee has instituted a procedure in which questions raised by current intelligence products are forwarded, on an informal basis, to the community for clarification or explanation. Such an exchange is useful both to analysts in offering objective responses to their work and to the Committee as it seeks insight into the quality of analysis and production.

FOREIGN INTELLIGENCE FOR THE SENATE

In addition to oversight of the quality of assessments produced by the Intelligence Community, the Committee is also a major consumer of intelligence analysis. The Committee is the recipient of a large volume of finished intelligence which enables the Members to keep apprised of developments relevant to the work of the Senate. The Committee has also been called upon periodically to provide the Senate with independent evaluations of intelligence data relevant to important policy decisions. The oversight and information-gathering functions of the Committee are often intertwined. For example, in 1979 the Committee reported to the Senate on U.S. capabilities to monitor compliance with the limitations set by the proposed SALT II Treaty. Since that time, the Committee continued to oversee the adequacy of the Intelligence Community's capabilities to monitor Soviet military activities relevant to several arms control agreements, and has been kept abreast of intelligence on Soviet compliance with these accords.

In the past two years, the Committee has continued to receive an increasing volume of finished intelligence assessments and briefings. The Committee has had briefings on a wide range of topics including the situation in Central America. The Iran-Iraq war, Soviet involvement in Afghanistan, the Lebanon crisis, development in Poland, East-West technology transfer, the Falklands crisis, developments in Soviet military capabilities and a number of other topics. These briefings are useful not only for the information they convey, but also in giving Committee Members opportunities for closer contact with analysts.

ARMS CONTROL MONITORING

The Select Committee receives periodic reports from the Intelligence Community on Soviet military activities relevant to various arms limitation agreements. Pursuant to its obligations under S. Res. 400 (94th Congress), the Committee has continued to report to other relevant Committees on those developments. In the past two years, the Committee staff has prepared classified reports and memoranda on Soviet military activities relevant to the SALT I Interim Agreement, the ABM Treaty, the Threshold Nuclear Test Ban Treaty, the Geneva Protocol on Chemical Weapons, and the Biological Weapons Convention.

In 1982, the Committee has received several briefings on the progress of the Strategic Arms Reduction Talks (START) and the negotiations on the limitation of intermediate-range nuclear forces in Europe (INF). The Committee also held a hearing with an interagency group of intelligence officials on U.S. capabilities to monitor existing and prospective strategic arms limitations. The Committee is attempting to develop a detailed understanding of all facets of these negotiations by developing a record that will be used by the Senate in considering any agreement that is achieved and upon which the Committee can draw upon if it is asked to assess U.S. capabilities to monitor such accords.

MONITORING NUCLEAR PROLIFERATION

Tracking the global spread of nuclear materials and technology, particularly those aspects with military applications, remains a central concern of American foreign policy. For the past several years, the Committee has reviewed the Intelligence Community's collection and analytic activities devoted to monitoring the international nuclear trade and foreign nuclear power and weapons programs in order to ensure that policymakers are being provided with the best possible data on these critical questions.

In the past two years, the Committee has continued to meet with analysts and collection managers throughout the Community to ensure that adequate resources are being devoted to these problems. Through its budget authorization actions, the Committee has been a strong supporter of improvements in nuclear intelligence collection programs. The Committee has also been briefed on several occasions on developments in the nuclear programs of a number of states that may have an interest in fabricating nuclear weapons.

INTELLIGENCE ISSUES RELATING TO MX ICBM BASING

On December 8, 1982, the Committee had two detailed briefings on intelligence assessments relevant to projections of the survivability of the MX ICBM in the closely-spaced basing (CSB) mode. Officials from the Intelligence Community and from the Defense Nuclear Agency provided the Committee with detailed insights into topics such as: Soviet capabilities to develop countermeasures that would defeat the CSB concept; likely Soviet military political reactions to CSB

deployment; the methodology for developing estimates of ICBM silos hardness; and a number of others.

The Committee has also agreed in principle to analyze intelligence issues relating to whatever MX ICBM basing mode is selected. It may also prepare a report, requested by Senator Robert C. Byrd, which will review intelligence judgments on Soviet reactions to MX deployment in the CSB mode.

THE MIDDLE EAST

The Middle East continued to occupy a major share of the Committee's attention throughout the period of this report. Events in that region involved important American political, economic and military interests, requiring a significant effort by all components of the U.S. intelligence community. The Committee sought to ensure that intelligence resources were being used to maximum advantage and that senior policymakers were receiving timely, objective intelligence information and assessments of the highest quality. To exercise oversight of intelligence coverage of the Middle East, the Committee received numerous briefings by the Intelligence Community, conducted several hearings, and commissioned staff studies and reports on key issues. The Committee held hearings on the question of Iraq's nuclear activities, the Israeli attack on the Tuwaitha Nuclear Research Center in Baghdad in June 1981, the political and military situation in Lebanon, especially from the summer of 1981 on, culminating in the Israel's entry into that country in June 1982.

The Committee also carefully examined the proposed sale of sophisticated Airborne Warning and Control System (AWACS) and F–15 aircraft to Saudi Arabia. In this connection, the Committee conducted a study of the intelligence implications of this controversial transfer and a classified staff report was prepared in the fall of that year. The Committee also received briefings on issues concerning several key countries in the area.

Finally, in the fall of 1981 the Committee received a briefing on the information obtained by the Intelligence Community that was the basis for taking extraordinary precautions to protect the President and other high officials from a possible terrorist attack inspired by Libya. Members were satisfied that there were reasonable grounds for taking this possibility seriously. In the course of reviewing this situation, the Committee received detailed intelligence on Libyan involvement in international terrorism directed not only at U.S. officials but also against foreign leaders.

CENTRAL AMERICA

In 1981, as U.S. policymakers' attention focused on the developments in Central America, the Committee sought to address intelligence issues on the region. A staff working group was established to review the available intelligence on such subjects as the composition of guerilla forces, the nature of external support to insurgents, and internal political and economic developments. The working group also assessed U.S. abilities to monitor such conditions. CIA Director William Casey and other representatives of the Intelligence Com-

munity briefed members of the Committee on a regular basis and staff have provided additional updates to all interested members.

The Committee also reviewed such questions as whether the Intelligence Community had effectively responded to the situation in Central America by redirecting and expanding its available resources and whether the intelligence collected adequately supported the community's various analytical assessments concerning the region.

THE FALKLAND ISLANDS CRISIS

The Committee has followed the politico-military situation in the South Atlantic in order to keep abreast of developments there and assess related U.S. intelligence capabilities, including the ability of the Intelligence Community to react to rapid developments in distant areas. The Committee was briefed on intelligence issues related to the Falklands crisis and staff received and assessed relevant intelligence products.

The Committee staff prepared a classified report on the performance of the Intelligence Community in providing senior U.S. decisionmakers with warning of the potential for conflict between Argentina and the United Kingdom. The goal of this undertaking was to explore what larger implications this case might have for the indications and warning capabilities of the Intelligence Community. This report was shared with CIA's internal production evaluation group which conducted a broader review of the overall activities of the Community during the crisis. While the findings of the Committe's inquiry are classified, mechanisms for continuing this type of constructive interaction have been established.

SOVIET LEADERSHIP SUCCESSION

At Senator Moynihan's request, the Committee held hearings on September 28 and 29, 1982, on leadership succession in the Soviet Union. A closed session with CIA Soviet experts was followed by an open hearing with four senior Soviet scholars from outside the government. These hearings explored the nature of past Soviet leadership changes, the type of power struggle likely to ensue in the post-Brezhnev era, and the backgrounds and policy inclinations of the leading contenders for leadership positions. A declassified transcript of the session with the CIA was published along with the record of the public hearing and a statement by Senator Moynihan.

CHEMICAL AND BIOLOGICAL WARFARE

The Committee has held hearings on intelligence regarding the use of chemical and biological weapons by the Soviet Union or by Soviet supported regimes in Afghanistan and Southeast Asia. These sessions and subsequent staff investigations focused not only on the substance of the issue but also on past collection, analysis, and dissemination of finished products.

Of particular concern to the Committee were the issues of whether the Intelligence Community had identified the use of these weapons

in a timely manner; had assisted the government in the collection and analysis of evidence; and had evaluated information indicating Soviet non-compliance with relevant agreements.

ILLICIT INTERNATIONAL DRUG TRAFFIC

Intelligence on illicit international drug trafficking can make a significant contribution to the United States Government's efforts to control the flow of that traffic before it reaches our national borders. Although the Drug Enforcement Administration has the lead law enforcement role against illicit drug trafficking, virtually all agencies within the intelligence community have parts to play in the overall U.S. Government effort. The Select Committee over the past several years has regularly followed the performance of the intelligence community against the illicit international drug trafficking target and examined particular issues of special concern. In part, this is accomplished by the Committee's review of quarterly, monthly, and weekly reports prepared by DEA.

At the request of Senator Biden, the Committee held a closed hearing on July 14, 1982, on U.S. foreign intelligence activities directed against illicit international drug traffic. The Deputy Director of Central Intelligence, the Director of the National Security Agency, and the Acting Administrator of the Drug Enforcement Administration testified. Several months of interviews on the part of the Committee staff with relevant officials throughout the federal government and close review of the documentary intelligence products and policies preceded this hearing.

The hearing began with a general overview of the illicit drug traffic intelligence collection and analysis activities of the intelligence communities. It then addressed in greater depth certain problems and possibilities for improvement in intelligence collection and analysis. It examined provisions of Executive Order 12333, relevant statutes, and agency implementing guidelines that govern the conduct of U.S. foreign intelligence activities against illicit drug traffic and the use that can properly be made of the intelligence in law enforcement operations. Finally, the hearing examined in some detail issues in the coordination of and cooperation among the intelligence agencies against the illicit drug target.

This hearing and the record of the intelligence community's historical effforts in this field helped the Committee discern steps that the intelligence community could take to improve collection and analysis of intelligence on the foreign aspects of illicit drug traffic. On August 20, 1982, the Vice Chairman wrote to the President and the Director of Central Intelligence urging them to dedicate more intelligence resources to this problem. In response to concerns of the Committee, the Intelligence Community has made some changes in organization and priorities and has undertaken a review to develop a long range plan to remedy deficiencies in intelligence capabilities in this area.

It is the Committee's intention, as stated at its July 14th hearing, to continue to examine closely U.S. illicit drug intelligence activities.

As part of this continuing effort, in November 1982 Chairman Goldwater assigned a Committee staff member to travel with an officer of the Intelligence Community Staff to review and assess U.S. illicit drug intelligence collection activities in most of the major heroin source and transit countries.

IV. Counterintelligence and Counterterrorism

The Select Committee has given high priority to an assessment of U.S. counterintelligence capabilities and the threats posed by the intelligence services of foreign powers in this country and abroad. The FBI has principal responsibility for counterintelligence activities within the United States, while the CIA is in charge of counterintelligence activities overseas. The counterintelligence components of the Department of Defense also play a key role in protecting against hostile intelligence threats to the military services worldwide. Through the annual budget authorization process and other oversight practices, the Select Committee has sought to evaluate the performance of the Intelligence Community in identifying hostile intelligence threats and in taking measures to protect against those threats. The Select Committee has also looked into related physical, personnel, document, and communications security programs that are an integral part of the Government's countermeasures against hostile foreign intelligence activities.

TECHNOLOGY TRANSFER

The problem of technology transfer was examined in detail during closed hearings and staff inquiries. At the request of the Select Committee, the Director of Central Intelligence undertook a comprehensive review of the adequacy of Intelligence Community programs for dealing with the loss of valuable technology to the Soviet bloc. The DCI submitted a report to the Committee that identified weaknesses in these programs and made specific proposals for improving foreign intelligence collection and analysis, counterintelligence, and interagency coordination with respect to technology transfer. At Senator Jackson's request, the Committee assigned a staff working group to conduct an independent inquiry into key aspects of the problem. Numerous interviews, briefings, and meetings were held at all the pertinent components of the Intelligence Community; and written assessments of particular subjects were prepared by the relevant agencies. Through the staff working group, the Select Committee cooperated with the Permanent Subcommittee on Investigations of the Committee on Government Affairs, which held a series of important public hearings in 1982 on the technology transfer problem. The Select Committee assisted the Permanent Subcommittee on Investigations in preparing for its hearings and in developing its report. The CIA submitted to the Permanent Subcommittee on Investigations a declassified report on "Soviet Acquisition of Western Technology" in April 1982, and the Select Committee provided an independent classified staff study which examined certain aspects of the problem in detail.

The report of the Permanent Subcommittee on Investigations on "Transfer of United States High Technology to the Soviet Union and

Soviet Bloc Nations" [2] represents an outstanding example of cooperation between the Intelligence Community and the Congress on a matter of significant concern. The Select Committee devoted its efforts to ensuring that this report would be based on sound intelligence information, consistent with the need to protect intelligence sources and methods. In its oversight capacity, the Select Committee monitored the steps taken by the Intelligence Community to respond to the problems identified in the report and to improve foreign intelligence and counterintelligence programs regarding technology transfer.

COUNTERINTELLIGENCE ORGANIZATION

The Select Committee gave special attention to the division of responsibility for counterintelligence among several agencies. Due in part to the statutory ban against CIA exercising "law enforcement powers or internal security functions," [3] there are limits on the CIA's authority for counterintelligence within the United States. At times in the past, coordination between FBI and CIA has been inadequate; and no decision mechanism existed for establishing national counterintelligence policy to protect the United States against the total foreign intelligence threat by means of the full range of countermeasures. Perhaps more important, no one agency was responsible for making a comprehensive assessment of all aspects of the hostile intelligence threat.

At the request of Senators Wallop and Chafee, the Select Committee asked Director William Casey and FBI Director William Webster to present their views on the need for improvements in the management and direction of the national counterintelligence program. They testified before the Budget Subcommittee, chaired by Senator Wallop, and before the Subcommittee on Collection and Foreign Operations, chaired by Senator Chafee, with regard to proposals for establishing a better system to assess the overall threat and develop national policies for more effective countermeasures. After these hearings, the Select Committee was informed of the organizational changes adopted to address these issues. A small interagency counterintelligence staff drawn from the FBI, CIA, and Defense Department was set up in the Intelligence Community Staff to make regular overall assessments of threats and U.S. countermeasures.[4]

In 1982 a Senior Interagency Group-Intelligence was established under the National Security Council with two working interagency groups for counterintelligence and countermeasures. The Interagency Group for Counterintelligence, chaired by FBI Director Webster, is responsible for developing policy recommendations for counterespionage and for countering hostile covert action (what the KGB calls "active measures"). The Interagency Group for Countermeasures, chaired by the Deputy Secretary of Defense, is responsible for other national countermeasures policies for dealing with technical intelligence threats and protective security programs. This structure re-

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[2] Senate Report No. 97–664.
[3] Section 102(d)(3) of the National Security Act of 1947 [50 U.S.C. 403(d)(3)].
[4] This staff was originally established in 1978 to meet the needs of the NSC's Special Coordination Committee for Counterintelligence under Executive Order 12036. Until 1981 it was assigned to the Office of the DCI.

placed the NSC's Special Coordination Committee for Counterintelligence, created in 1978 by Executive Order 12036. The Select Committee has been kept informed of the issues being addressed by these interagency groups.

COUNTERINTELLIGENCE PROCEDURES

Restraints on U.S. counterintelligence adopted to protect the rights of U.S. persons are matters of continuing interest to the Committee. In the process of consultation with the Executive Branch leading up to the issuance of executive Order 12333 in December 1981, the Select Committee examined in detail various proposals to modify the standards and procedures for counterintelligence investigations of U.S. persons. The Select Committee was also informed before implementation of the procedures for such investigations promulgated under the new Executive Order. The Select Committee has sought to determine whether the Intelligence Community is exercising its authority effectively against serious foreign threats to U.S. security and whether there are adequate safeguards to prevent misuse of that authority. To examine these questions, information has been obtained from the operating elements of the Intelligence Community, from the General Counsels' Offices, and from the Attorney General's Counsel for Intelligence Policy.

COUNTERINTELLIGENCE THREAT ASSESSMENTS

The Select Committee periodically receives Intelligence Community assessments of the threats to this country from hostile intelligence services. These assessments include both interagency products and publications of particular agencies. A special, comprehensive long-range assessment of threats and countermeasures prepared for the National Security Council in mid-1982 was promptly submitted to the Select Committee and has provided a basis for evaluating both resource and policy issues in the counterintelligence field. Classified interagency and FBI publications on hostile intelligence covert actions have described the development of agents of influence, the use of forgeries and other disinformation efforts, the control of "front" organizations, and similar operations directed against the United States and its allies. The Select Committee has been kept informed of the efforts of Soviet intelligence officers, other Soviet agents, and Soviet-controlled organizations to influence the political process in the United States and abroad.

In certain cases, representatives of particular agencies have briefed the Select Committee on security and counterintelligence problems, including the damage caused by unauthorized disclosures of classified information. The Committee received briefings on the damage resulting from the unauthorized disclosure of classified information by Air Force Lieutenant Cooke and on the steps taken by the Air Force to improve procedures for handling such cases where assurances are made to potential espionage defendants in exchange for counterintelligence information. In 1982, a senior FBI official expressed concern publicly about the adequacy of certain aspects of security in Con-

gressional offices. At Senator Huddleston's request, the Select Committee received a full briefing from the FBI on the continuing pattern of hostile intelligence targeting and recruitment efforts against Members of Congress and their staffs. Based on the Select Committee's inquiry into the activities of Soviet bloc intelligence officers on Capitol Hill, the Chairman and Vice Chairman made recommendations to the Senate leadership for improved security awareness in Senate offices. These recommendations included better security guidance of Senate staff who handle classified information, briefings for Members and key staff on hostile intelligence operations directed against the Congress, and improved procedures for reporting contacts with representatives and visitors from Communist countries.

Overlapping both counterintelligence and foreign intelligence is the problem of possible Soviet deception of our intelligence system. The Select Committe has looked into allegations that U.S. intelligence has been deceived with regard to Soviet missile accuracy. It is clear that the Soviets are engaged in efforts to deceive U.S. intelligence, and the Select Committee's inquiry stressed the importance of greater attention to cross-checking diverse sources as a means of detecting Soviet deception efforts.

Finally, the Select Committee has examined the growing threat to U.S. security interests posed by the clandestine intelligence gathering activities of foreign officials and agents in the United States. The number of Communist country officials has increased significantly in recent years. The threat is compounded by the documented use of so-called "illegals", foreign agents who pose as U.S. citizens or resident aliens and operate without any overt contacts with foreign officials. Statistics on the presence of known or suspect intelligence officers of Communist countries in the U.S. have been provided by the FBI. The Select Committee has also examined the evidence of Soviet use of facilities in the U.S. to intercept private communications. To strengthen the capabilities of U.S. counterintelligence and reduce these threats, the Select Committee has authorized additional funds for the FBI, has stressed the importance of reciprocity in diplomatic arrangements, and has explored additional ways to combat hostile intelligence efforts more effectively.

COUNTERTERRORISM THREAT ASSESSMENT

The Committee has maintained continuing oversight with regard to the activities of the Intelligence Community in the field of international terrorism, as well as FBI investigations of domestic terrorism. While international and domestic terrorism are treated separately under current laws and Executive orders, some aspects are closely related insofar as an effective counterterrorism program is concerned.

The agencies in the Intelligence Community that produce intelligence studies and reports on international terrorism regularly provide the Committee information on terrorist incidents and assessments of terrorism threats throughout the world. This intelligence is vital for planning protective measures for Americans serving abroad in civil and military positions. It is also essential in preparing for any operations that might be needed to save the lives of Americans in

extraordinary situations. Intelligence on foreign terrorism contributes directly to the assessments for national policymakers of political stability in particular regions of the world, as well as the impact on U.S. interests of foreign support for international terrorism. Studies of the experience of other countries in combatting terrorism and the effectiveness of various counterterrorism policies help in developing countermeasures for the U.S. and its allies. Intellgience appraisals regarding the capabilities and objectives of international terrorist groups add to the understanding of the threat and formulations of foreign policy initiatives to undermine their support. Long-range projections of the prospects for terrorism in the 1980s provide the perspective needed to set priorities for resource allocation both inside and outside the Intelligence Community. All these types of intelligence products have been provided to the Committee for its use in reviewing the quality of U.S. counterterrorism intelligence collection and analysis.

The Committee has also requested and received additional information on areas of special interest. In 1981, the CIA provided comments requested by the Committee on the book, The Terror Network, by Claire Sterling. Officials, of agencies involved in preparing a Special National Intelligence Estimate on "Soviet Support for International Terrorism and Revolutionary Violence" responded to questions about the basis for various analytical judgments and observations. Information was also sought and obtained regarding terrorism in Central America as part of the Committee's overall examination of U.S. intelligence capabilities in that region.

FBI officials testified before the Committee or briefed the Committee regarding terrorism threats and investigation on four occasions. Senior FBI executives testified on the activities of international and domestic terrorists within the United States in 1981 and as part of the Budget Subcommittee's hearings on counterintelligence and terrorism programs in 1981 and 1982. Director Webster briefed the Committee on the Nyack, New York, bank robbery committed in May 1981 by persons associated with the "Weather Underground" and other violent groups. Director Webster provided the FBI's assessment of the intelligence significance of the massive amount of information obtained in the course of the FBI's investigation in this case. In view of Director Webster's statement at this briefing identifying Puerto Rican terrorist groups are posing the most serious domestic threat, members of the staff received follow-up briefings on the FBI's investigations of such groups, the resource constraints on the FBI's involvement in Puerto Rican terrorism.

COUNTERTERRORISM CAPABILITIES

For the purpose of monitoring the Intelligence Community's performance in this area, the committee formed a staff working group on terrorism in 1981. Members of that working group were also assigned to assist the Budget Subcommittee in its consideration of counterterrorism programs. Working group members reviewed publications on terrorism and met with government officials and outside experts familiar with counterterrorism problems. To review FBI counterterrorism capabilities within the United States, members of the

working group visited FBI field offices in Miami, Florida; Chicago, Illinois; and San Juan, Puerto Rico. In November 1982, Chairman Goldwater instructed a Professional Staff Member of the Committee to travel to Italy to study terrorism and counterterrorism methods in that country.

CIA and Defense Department officials also testified or briefed the Committee with respect to the counterterrorism intelligence capabilities of the Intelligence Community. CIA Director Casey and Deputy Director for Operations John Stein reported on CIA efforts during the Budget Subcommittee hearings. General Eugene Tighe, Director of the Defense Intelligence Agency, presented a special analysis of the terrorist threat at the Budget Subcommittee hearings in 1981; and General Richard Stilwell, Deputy Undersecretary of Defense for Policy, testified on military counterintelligence efforts against terrorist threats abroad. All the agencies responded to detailed questions submitted for the record. Committee members placed special emphasis on the need to assure adequate intelligence support for any military operations that might be needed to save lives of American victims of a terrorist action.

Because of the Committee's concern about the effectiveness of U.S. counterterrorism intelligence capabilities, members of the staff working group examined the guidelines and procedures approved by the Attorney General for the collection of counterterrorism intelligence and the conduct of domestic security and terrorism investigations. These guidelines and procedures apply only to activities conducted within the United States or regarding United States persons (citizens, resident aliens, and groups substantially composed of citizens or resident aliens). The standards approved by the Attorney General do not apply to counterterrorism intelligence activities with regard to foreign nationals abroad. The Committee's examination of procedures adopted pursuant to Executive Order 12036, issued by President Carter in 1978, suggested that much of the complex language could be streamlined to facilitate necessary and legitimate counterterrorism investigations. This review of procedures contributed to the Committee's assessment of proposals for what eventually became Executive Order 12333, issued by President Reagan in December 1981.

V. General Oversight

Nomination of William J. Casey to be DCI

Three presidential nominations were referred to the Committee during the time covered by this report. On January 13, 1981, William J. Casey appeared before the Committee as the nominee for the position of Director of Central Intelligence. During the hearing Mr. Casey affirmed, "I intend to comply fully with the spirit and the letter of the Intelligence Oversight Act. I intend to provide the Committee with the information it believes it needs for oversight purposes. . . ." In addition, during the hearing, Mr. Casey addressed a wide variety of issues including guidelines for the use of clerical, academic or journalist cover, the quality of analysis and related problems of attracting and retaining highly qualified analysts, technology transfer, the protection of agents' identities, FOIA, covert action and leaks.

On January 13, 1982, the Committee voted to approve Mr. Casey's nomination by a vote of 14–0–1. The Senate confirmed Mr. Casey on January 27, 1981, by a vote of 95–0.

NOMINATION OF ADMIRAL INMAN TO BE DDCI

On February 3, 1981, Admiral Bobby Ray Inman appeared before the Committee as the President's nominee for the position of Deputy Director of Central Intelligence. With twenty-one years of service in the field of intelligence, Admiral Inman had most recently served as the Director of the National Security Agency. In his confirmation hearing, Admiral Inman reconfirmed his commitment "to keep the committees fully and completely informed." Admiral Inman identified manpower shortages, in particular the need for skilled analysts, as the primary problem facing the CIA. In addition, Admiral Inman reviewed issues such as the Intelligence Community's past performance in assessing the Soviet military threat, counterintelligence, the organization of the intelligence community, the shortage of linguists, and the quality of the community's analytic products.

Admiral Inman's nomination was approved unanimously by the Committee. The Senate confirmed his nomination on February 5, 1981, by a vote of 94–0.

NOMINATION OF JOHN M'MAHON

On May 26, 1982, the Committee met in closed session to consider the nomination of John N. McMahon for the position of Deputy Director of Central Intelligence. The following day the Committee conducted a public hearing.

Mr. McMahon had served in the CIA for thirty-one years, most recently as the Executive Director for the CIA. During the hearing, Mr. McMahon stated:

> I think the American people deserve [oversight], but more importantly, the agencies deserve it. I, for one, as an individual who has had to testify before the oversight committees, drew a great deal of comfort knowing that I was sharing with them, with the representatives of the American people, our programs and what we were up to, and that comfort was derived not only from the beauty that exists in that coexistence between the two branches, but more importantly, it was a protection. It was a protection to me as an individual and it was a protection to the institutions to know that Congress was a joint partner in these programs.
>
> I feel that oversight is a vital part of our existence in the intelligence world and welcome it, and . . . [I] will abide by the instructions to keep the Congress fully and currently informed.

In addition to the issue of oversight, Mr. McMahon considered questions on the Community's budget resources, U.S. strategic monitoring capabilities, competitive analysis, coordination on counterintelligence and the FOIA. In the closed session, Mr. McMahon agreed

to inform the Committee immediately whenever the CIA used its new authority under E.O. 12333 to collect foreign intelligence concerning U.S. persons by clandestine means within the U.S.

The Committee unanimously approved Mr. McMahon's nomination. The Senate unanimously endorsed the nomination on June 9, 1981.

INQUIRY CONCERNING WILLIAM J. CASEY

From July through November, 1981, the Committee made an inquiry into certain conduct by Mr. William J. Casey while and prior to becoming Director of Central Intelligence. Questions arose concerning, among other things, Mr. Casey's appointment of Mr. Max Hugel, a businessman, to sensitive positions in the Central Intelligence Agency; his role in business transactions that led to some lawsuits against him; and his failure to sufficiently respond to the Committee's questionnaire form for nominees and to a similar Office of Government Ethics (OGE) form.

On December 1, 1981, by a vote of 14 to 1, the Committee issued a report of its inquiry which concluded that "no basis has been found for concluding that Mr. Casey is unfit to hold office as . . . [DCI]." (See Senate Report No. 97–285.) The report noted that Mr. Casey had accepted "full responsibility" for the appointment of Mr. Hugel as Deputy Director for Operations and had volunteered that it was a "mistake," a judgment in which the Committee concurred.

As to the civil litigation in which Mr. Casey was a defendant, no basis was found for any moral culpability.

It was found that Mr. Casey omitted a "large amount" of information requested by the Committee's and OGE's questionnaire forms. The Committee expressed concern that "this pattern suggests an insufficient appreciation of the obligation to provide complete and accurate information to the oversight Committees of Congress." In this connection, during the Committee's inquiry, Mr. Casey amended the forms to furnish all information required. He continues to be subject to annual financial reporting requirements and the Ethics in Government Act. In May, 1982, Mr. Casey filed his 1981 report. In addition to listing his financial holdings and transactions, the report prevent investments which might inadvertently violate ethics regulations. The Director of OGE certified that Mr. Casey's report disclosed no conflict of interest under applicable ethics laws and regulations.

One of the facts Mr. Casey had omitted in his nominee questionnaire form was that, as a private attorney in 1976, he had represented the Republic of Indonesia before the Treasury Department in a matter involving foreign tax credits. This client relationship raised a question as to whether Mr. Casey should have registered under the Foreign Agents Registration Act (FARA). However, the Committee report noted that "this question was not resolved by the Committee because it is a technical one involving whether there was an attempt to influence or persuade agency officials and, if so, whether an exemption applied because his representation was in the course of an established agency proceeding." For this reason, a copy of the Committee's report was sent to the Department of Justice, which administers FARA.

The Justice Department conducted a preliminary investigation pursuant to the Special Prosecutor provisions of the Ethics in Government Act (28 U.S.C. 592) and reported the results on April 7, 1982. The Attorney General's report concluded that "there is insufficient evidence to support a criminal investigation" and that the matter is "so unsubstantiated that no further investigation is warranted . . . and that no Special Prosecutor should be appointed. . . ."

REQUIRED REPORTS

Charged with providing "vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States," the Committee receives and reviews reports, mandated by legislation, from various agencies and departments of the government.

The Foreign Corrupt Practices Act of 1977, for example, contains a national security provision under which a corporation can be relieved of the requirements for accuracy in corporate books and records with respect to particular classified matters relating to the national security in which it may be involved, provided that in each instance the corporation is especially exempted from liability under the Act by means of a written directive issued by the Federal agency responsible for the national security matter in question. These directives must be reviewed annually and, in addition, the appropriate agency head must transmit a summary of matters covered by all exemption directives in force at any time during the previous year to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence.

The report submitted by the Acting Director of Central Intelligence in 1982 summarized those new exemption directives that were issued and renewals of exemptions issued in the previous year, thereby satisfying the CIA's statutory obligation under the Foreign Corrupt Practices Act.

The Right to Financial Privacy Act requires that the Committee be advised of the number of requests made by the FBI for financial records in connection with foreign intelligence and counterintelligence activities. The Committee received and reviewed such reports in 1981 and 1982.

The Classified Information Procedures Act of 1980 requires the Attorney General to report semiannually to the Committee all cases in which a decision not to prosecute a violation of Federal law has been made for reasons of national security pursuant to Section 12(a) of the Act. These reports were received in a timely fashion and reviewed by the Committee.

FOREIGN INTELLIGENCE SURVEILLANCE ACT

Under Section 108 of the Foreign Intelligence Surveillance Act of 1978, the Attorney General is required, on a semiannual basis, to inform the Committee of all electronic surveillance conducted under the Act. These written reports are supplemented by additional information provided at periodic meetings with Committee staff and represent-

atives of the Attorney General and the agencies involved in FISA electronic surveillance. Designated senior staff have also been specifically briefed on the procedures utilized by the relevant agencies to carry out the Act.

Section 108(b) of the Act requires this Committee to report to the Senate annually for the first five years after the Act's effective date regarding its implementation. The Committee submitted its third and fourth annual reports during the 97th Congress (S. Rep. Nos. 97–280 and 97–691).

In each of the first three years the Act has been in effect, the Executive Branch proposed amendments. None was enacted and in 1982 the request for amendments was not renewed. The Committee, in consultation with the Department of Justice and principal agencies that conduct surveillance under the Act, has continued to assess the need for such amendments. In the next Congress, which will cover the fifth and final year for the Committee reporting to the Senate regarding implementation of the Act, the Committee expects to have hearings on the need for any changes to the Act or to the implementing procedures. Until these hearings are completed, the Committee has recommended that the Foreign Intelligence Surveillance Act continue in effect without amendment.

INTELLIGENCE RELATIONSHIPS WITH JOURNALISTS, ACADEMICIANS AND CLERICS

In recent years, concern has been expressed by some Members of the Committee and the public that the independence of American journalists, academics, and clerics might be compromised if they were to become involved in clandestine intelligence operations. In the 97th Congress, the Committee continued its oversight of intelligence agency relationships with these professions, which has included obtaining reports on agency policies and practices. In this connection, the Intelligence Community strictly controls arrangements with newsmen, universities and their employees, and clerics. Of particular importance are the CIA's regulations which bar secret relationships with clerics and prohibit such relationships with members of U.S. media organizations except upon waiver by the Director of Central Intelligence. In addition, arrangements with U.S. academic institutions may be entered into only so long as senior management officials are made aware of CIA's sponsorship. Similarly, operational use of staff or faculty may not be made unless they are aware of CIA's involvement. These restrictions do not bar voluntary provision of information to the intelligence agencies by journalists, academics or clerics. There has been no change in these regulations since 1978.

THE WILSON/TERPIL AFFAIR

The activities of former CIA employees Edward Wilson and Frank Terpil have been a matter of concern to the Committee from the time of the earliest revelations of their misconduct in 1976. The Committee has kept abreast of the various investigations and prosecutions in an effort to identify what, if any, legislation or administrative

measures might be needed to prevent or deter more effectively the type of conduct involved in this case. As part of this work, the Committee held a closed hearing on April 22, 1977, in which it heard from the DCI, the CIA Inspector General and representatives of the Justice Department. On October 1, 1981, the Committee received an update. In addition, the Committee's staff has been in continual contact with government officials involved in ongoing investigations and prosecutions. The Committee will continue to monitor these proceedings as one of its general oversight activities.

On March 17, 1982, a jury in the U.S. District Court in Alexandria, Virginia, found Wilson guilty on 7 of 8 counts of an indictment charging him with violations of government export laws. In this case, the government successfully invoked the Classified Information Procedures Act of 1980 to obtain a court ruling that classified information Wilson sought to introduce at trial was irrelevant to the charges. The Act permits the government to obtain pre-trial rulings on the admissibility of classified information to avoid the risk of uncontrolled compromise of intelligence sources and methods during a trial. This statute was a direct outgrowth of a study by the Senate Intelligence Committee in 1978. (*See* Committee Print titled, "National Security Secrets and the Administration of Justice," A Report of the Subcommittee on Secrecy and Disclosure of the Senate Select Committee on Intelligence.)

The Wilson-Terpil case has also afforded the Committee the occasion to consider the effectiveness of our nation's laws concerning conduct by former intelligence agency officials and assistance by Americans to international terrorist activities. It is expected that the Committee and the Congress as a whole will be giving these questions increasing attention in the next Congress as ongoing legal proceedings and investigations come closer to conclusion.

DEFECTORS PROGRAM

Defections of Communist Bloc diplomatic, intelligence and military personnel provide a valuable source of information on a broad range of activities directed against the security of the United States and its allies. The Central Intelligence Agency conducts a program for the reception, debriefing and resettlement of defectors, and its successful operation is an essential element in encouraging potential defectors. Thus there is a substantial national interest in a well-conducted defector program. For this reason, the Committee has reviewed the defector resettlement program closely to ensure that this program is operating as it should be.

In the spring of 1981, information came to the Committee's attention directly and through the press of discontent among certain defectors, principally relating to the CIA's assistance in helping defectors integrate into American life after completion of extensive debriefing. Therefore, the Committee determined that a careful review of Agency practices and procedures, as well as investigation of specific cases involving dissatisfied individuals, was necessary. The Committee formed a staff working group and began a close and sustained examination of the defector program. The working group received full cooperation

from the Central Intelligence Agency and other involved elements of the Intelligence Community, and prepared a staff report in March, 1982.

The staff working group was primarily concerned about two issues: whether the Central Intelligence Agency was causing discontent among a significant portion of defectors by offering unsustainable assurances of assistance prior to debriefing and failing to delivery fully afterwards; and the extent to which Agency performance might be reflected in reducing the ranks of potential defectors. In examining specific cases of defector dissatisfaction, the working group's larger aim was to determine whether the Agency was adhering to established guidelines regarding levels and types of assistance, and whether changes in Agency practices might be advisable.

As a first order finding, the staff working group concluded that dissatisfied defectors prepared to make complaints to the Committee, employ legal assistance, contact the press or, in extreme cases, redefect, constitute a minute fraction of the total. This is evidence that, taken as a whole, the defector program is functioning effectively.

In pursuit of its larger objectives, the working group recommended certain changes in CIA procedures and practices with respect to agreement on levels, types and duration of resettlement assistance prior to debriefing of defectors in order to avoid complaints and misunderstandings, afterward. A number of these recommendations have been adopted and others kept under study for possible future implementation.

ALLEGED ASSISTANCE TO THE ENTRY OF NAZI WAR CRIMINALS INTO THE UNITED STATES

In 1978 the General Accounting Office completed an investigation, requested by the Chairman of the House Judiciary Subcommittee on Immigration, Citizenship, and International Law, of allegations of a conspiracy to obstruct investigations and prosecutions of alleged Nazi war criminals residing in the United States unlawfully. The GAO reported that available evidence did not support these allegations. Subsequently, an Office of Special Investigations was established in the Department of Justice to devote greater resources and attention to such investigations and prosecutions that had previously been the responsibility of the Immigration and Naturalization Service. A lawyer who served in the Office of Special Investigations until 1981 charged publicly after his departure that agencies of the United States government improperly brought Nazi war criminals into this country following World War II and had withheld information from the GAO and the Justice Department. At the request of the Vice Chairman, Senator Moynihan, and Senator Leahy, the Select Committee staff initiated an inquiry regarding these allegations insofar as they pertained to agencies in the Intelligence Community.

It was not the purpose of this inquiry to duplicate other investigations. In May, 1982, the Chairman of the House Judiciary Committee requested that the Attorney General investigate this matter to determine whether any violations of federal law had occurred. He also requested that the Comptroller General reopen the earlier investiga-

tion conducted by the GAO in 1978. The Select Committee staff consulted with staff of the House Judiciary Committee and reviewed pertinent materials in that Committee's possession. Staff also met with officials of the Department of Justice and the GAO to discuss their respective investigations. At the Select Committee's request, CIA Director Casey provided materials bearing on this matter, including a written report and other information needed by the Committee to understand and assess pertinent issues.

The former Justice Department lawyer who made the allegations volunteered additional materials to the Select Committee and met with staff to explain his position. This information was taken into account in the further conduct of the staff inquiry. Inasmuch as the Justice Department and GAO investigations continued through the end of 1982, the staff also continued to follow developments and pursue certain lines of inquiry that are not within the scope of these separate investigations, including the administration of the special authority granted under the CIA Act of 1949 which allows the DCI to designate annually up to one hundred persons for admission to the U.S.

ALLEGED SECURITY BREACH AT GAO

On February 3, 1982, Senator Roth, Chairman of the Committee on Governmental Affairs and a member of the Senate Intelligence Committee, requested the Senate Select Committee on Intelligence investigate an allegation of security breaches at the General Accounting Office (GAO). Senator Roth's concern was based on news articles which described attempts by a Soviet official to obtain classified GAO reports.

Because an investigation of possible intelligence related security breaches at the GAO more appropriately falls under the jurisdiction of the Senate Select Committee on Intelligence than the Committee on Governmental Affairs, Senator Goldwater, Chairman of the Intelligence Committee, agreed to Senator Roth's request and asked the staff to look into the allegations which were made. The staff interviewed officials at GAO, FBI, and CIA, and reviewed files pertinent to the case. In addition, the Senate Intelligence Committee's Security Officer examined the security and document control systems at GAO.

All agencies contacted during the staff investigation cooperated fully with the Committee. On June 29, 1982, Senator Goldwater sent a copy of the staff report to Senator Roth. The report was placed in the Congressional Record on September 24, 1982. Among other things, the staff concluded the following:

> No information was found to support the allegations: (1) that the Soviet officer in question succeeded in acquiring classified reports from GAO, that the Soviets had a penetration in the GAO; or (2) that security arrangements at GAO did or do not adequately protect classified material.

RICHARD BURT INQUIRY

In a September 15, 1982, hearing before the Senate Foreign Relations Committee, Mr. Richard Burt, nominated to be Assistant Secretary of State for European Affairs, was questioned about an article he

wrote which had appeared in the New York Times on June 29, 1979. Certain members of the Foreign Relations Committee expressed concern that the article may have disclosed sensitive national security information.

On September 16, 1982, the Chairman and Ranking Minority Members of the Foreign Relations Committee wrote to the Chairman and Vice Chairman of the Select Committee requesting "an assessment of any effect upon U.S. intelligence gathering of the disclosure of possibly sensitive national security information to a person who did not possess a security clearance, Mr. Richard Burt." In response to this request, a staff working group was established. The Committee prepared and delivered a classified report on September 28, 1982, to the Foreign Relations Committee.

VI. Budget Authorization

The annual budget authorization process is one of the principal means the Committee uses to fulfill its oversight responsibilities. Authorization provides the access and leverage necessary for the Committee to influence the scope and long-term direction of the U.S. intelligence effort, ensuring that appropriate measures for accountability exist.

THE BUDGET AUTHORIZATION PROCESS

Budget authorization enables the Committee to exercise a positive influence over the Intelligence Community by identifying and strengthening areas where greater capability is needed. On an annual basis, the Committee conducts a series of detailed evaluations of all activities included in the National Foreign Intelligence Program. This involves a range of inquiry which extends from the determination of how well the intelligence discipline is responding to the needs of senior policymaking officials to assessments of the intelligence programs conducted by the Department of Defense to support military commanders.

As in previous years, the schedule of work necessary to produce the budget authorization was demanding. During 1982, the process involved:

A comprehensive review of 17 volumes of budget justification material which totaled more than 2500 pages of detail;

Approximately 25 hours of hearings during which substantive testimony was received from the Director of Central Intelligence, the resource managers of the components of the National Foreign Intelligence Program (NFIP), and senior-level Department of Defense officials; and

Formulation and review of the written responses to several hundred questions-for-the-record which were drawn from the budget justification material and the testimony of witnesses.

During the period covered by the report, the Committee began to conduct a number of its budget hearings on a functional basis, to examine programs throughout the Community which involve similar agency missions; for example, intelligence collection, analysis and production, and foreign counterintelligence. This revised approach

to the authorization process proved beneficial. A detailed understanding of the relationships among many disparate programs was obtained and particular strengths and weaknesses in these activities were identified.

An understanding of the threat posed to the security of the U.S. and its allies is crucial if allocation of resources for intelligence purposes is to be effective. In that regard, the Committee sees no lessening in the world-wide threat from our competition with our principal adversaries, and developments in the Third World will continue to challenge U.S. world-wide interests. Prior to the Fiscal Year 1980 authorization, complex budgeting procedures and the absence of a long-range capabilities plan seriously impaired the Intelligence Community's ability to acquire and introduce the advanced systems necessary to adequately counter the threat. Since 1979, the Committee's budget authorization process has consistently generated recommendations which emphasize substantial investment in substantive areas which have the greatest potential for overcoming community-wide deficiencies in strategic collection, processing and production, including:

Introduction of a new generation technical collection system;

Modernization of the world-wide intelligence support structure, to include major expansions to the analytic workforce and the replacement of obsolete processing and production support systems;

Expansion of Human Intelligence source collection abroad; and

Improvements to U.S. capabilities for countering foreign espionage, and for dealing with the threats posed by international terrorism.

These recommendations support the Committee's goal of providing the needed amount of resources to recapitalize the U.S. intelligence system.

Intelligence is the first line of defense and it must be capable of effectively responding to a broad range of policymaking problems and military needs that are likely to emerge in the decade ahead. From a budgetary viewpoint, the Committee is becoming more satisfied that the Intelligence Community is responsive to these needs. Despite progress made to revitalize the intelligence discipline, however, the Committee has identified a number of areas which require continued attention by the DCI and intelligence program managers.

As in previous years, and as an integral part of the authorization process, the full Committee continued to exhaustively review all covert action projects. This was accomplished on a case-by-case basis. As a result of a formal vote by the Members of the Committee on each project, the authorization for several projects was modified or changed in scope.

CLASSIFIED BUDGET AUTHORIZATION REPORT

The Committee does not publicly disclose the details of its budgetary recommendations because of the classified nature of intelligence activities. Each year, a classified report is prepared which fully discloses the scope and intent of these recommendations to include the specific amount of resources authorized. Under S. Res. 400, 94th Congress, the Committee has an obligation to ensure all Members of the Senate are provided with the information necessary to make informed judgments

on the annual intelligence authorization. Subject to the provisions of the resolution, the Committee makes its classified report available to each Member of the Senate. Copies of the classified report are also provided to the Senate Armed Services Committee, the Senate and House Appropriations Committees, and to the House Permanent Select Committee on Intelligence.

STATUTORY AUTHORIZATION

Through the budget authorization process, the Committee is able to address problems faced by departments and agencies within the Intelligence Community which require specific statutory authority. In addition to legislation mentioned in Section I for the 1981–82 period, the Committee sponsored the following legislative initiatives:

For Fiscal Year 1982, the Intelligence Authorization Act permitted the Director of Central Intelligence to designate personnel to carry firearms to the extent necessary for the performance of CIA's authorized functions. In the United States, this authority is limited to the protection of classified material, firearm training, the protection of property and installations, and the protection of certain individuals;

The name, initials or seal of the CIA, NSA, and DIA are prevented from being used for commercial purposes, or in a manner that conveys the impression such use is approved, endorsed, or authorized by the Central Intelligence Agency without the written permission of the Director.

OTHER ACTIVITIES

The Committee completed a number of activities related to the budget authorization. These included visits to various intelligence collection sites nationwide and around the world to obtain first-hand knowledge of operational effectiveness, the review and approval of requests to reprogram resources, notification of requests to the Office of Management and Budget for fund release from the CIA's Contingency Reserve, and actions on supplemental budget requests and budget amendments.

APPENDIX

I. Summary of Committee Activities—January 1, 1981 to December 31, 1982

A. Total Number of Meetings, Hearings and Briefings: 133.

B. Bills and Resolutions: Total 10.

1. S. Res. 54 Authorizing expenditures by the Select Committee on Intelligence.

2. S. Res. 128 Waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of title IV of S. 1127, which authorizes supplemental appropriations for fiscal year 1981 for intelligence activities of the United States.

3. S. Res. 25 Authorizing supplemental expenditures by the Select Committee on Intelligence for the procurement of consultants.

4. S. Res. 310 Authorizing expenditures by the Select Committee on Intelligence.

5. S. Res. 384 Waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of title IV of S. 2487, which authorize supplemental appropriations for fiscal year 1982 for intelligence activities of the United States.

6. S. 1127 To authorize appropriations for the fiscal year 1982 for intelligence activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and to provide certain personnel management authorities for the Defense Intelligence Agency, and for other purposes.

7. S. 1273 To amend the Central Intelligence Agency Act of 1949, and for other purposes.

8. S. 2422 To provide for equitable sharing by the spouses of qualifying Central Intelligence Agency officers in benefits paid by the Central Intelligence Agency Retirement and Disability System.

9. S. 2487 To authorize appropriations for the fiscal year 1983 for intelligence activities of the United States Government for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

10. S. 2488 To strengthen and improve the management of civilian personnel within the Defense Intelligence Agency.

II. Publications of the Select Committee, January 1, 1981 to December 31, 1982

1. Hearing on the nomination of William J. Casey, January 13, 1981.

2. Hearing on the nomination of Admiral B. R. Inman, February 3, 1981.

3. Rules of Procedure for the Select Committee on Intelligence (Committtee Print) Amended February 27, 1981.

4. Senate Report 97–57 on S. 1127, Authorizing appropriations for FY 1982 for intelligence Activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and to provide certain personnel management authorities for the Defense Intelligence Agency, and for other purposes.

5. Hearing on Intelligence Reform Act of 1981, July 21, 1981.

6. Senate Report 97–193, Report to the Senate covering the period January 1, 1979 to December 31, 1980.

7. Senate Report 97–203 on S. Res. 225, Additional Funds for Select Committee on Intelligence.

8. Senate Report 97–280, Implementation of the Foreign Intelligence Surveillance Act of 1978–1980–1981.

9. Senate Report 97–285, Report of the Senate Select Committee on Intelligence on the Casey Inquiry.

10. Senate Report 97–379 on S. 2487 Authorizing appropriations for Fiscal Year 1983 for Intelligence Activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System (CIARDS), and for other purposes.

11. Senate Report 97–380 on S. 2488, Defense Intelligence Agency Personnel Management Improvement Act of 1981.

12. Senate Report 97–484 on S. 2422 Central Intelligence Agency Spouses Retirement Equity Act of 1981.

13. Hearing on the nomination of John N. McMahon, May 26 & 27, 1982.

14. Hearings on Soviet Succession, September 28 & 29, 1982.

15. Senate Report 97-691, Implementartion of the Foreign Intelligence Surveillance Act of 1978–1981–1982.

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